

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Cederick Wise,)	Case No.: 6:22-cv-00836-JD-KFM
)	
Petitioner,)	
)	
vs.)	OPINION & ORDER
)	
Kenneth Nelson,)	
)	
Respondent.)	
)	

This matter is before the Court with the Report and Recommendation of United States Magistrate Kevin F. McDonald (“Report and Recommendation”) (DE 13), made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2) of the District of South Carolina.¹ Cederick Wise (“Wise” or “Petitioner”), proceeding *pro se*, brings this action pursuant to 28 U.S.C. § 2254 for habeas relief alleging his due process rights have been violated and he is being falsely imprisoned based upon an alleged improper calculation of his sentence by South Carolina Department of Corrections (“SCDC”). (DE 1, pp. 5-9).

On November 14, 2005, the Petitioner plead guilty to two counts of kidnapping, one count of grand larceny, and one count of strong arm robbery. (DE 13, p. 1.) He was sentenced to two 30-year concurrent sentences on the kidnapping charges, with his sentence to be suspended upon service of 21 years’ incarceration and five years’ probation; a 15-year concurrent sentence for strong arm robbery; and a ten-year concurrent sentence for grand larceny. (*Id.*) According to the

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

SCDC Inmate Search Detail Report, the Petitioner began serving his sentence on October 28, 2003. See South Carolina Department of Corrections Incarcerated Inmate Search, <https://public.doc.state.sc.us/scdc-public/> (enter the Petitioner's first and last name) (last visited June 21, 2022). On September 16, 2021, the Petitioner filed a post-conviction relief ("PCR") action in the Sumter County Court of Common Pleas, arguing that SCDC improperly calculated his sentence, and he should be released. See Sumter County Public Index (enter the petitioner's name and 2021CP4301600) (last visited June 21, 2022). The petition remains pending at this time. Petitioner alleges that SCDC has improperly calculated his sentence and that his max-out date should have been August 13, 2021, or August 17, 2021, and that time served from July 2018 to June 2019 has not been properly calculated. (DE 1, p. 5.) For relief, the Petitioner seeks to be immediately released from prison. (DE 1, p. 17.)

The Report and Recommendation was issued on April 18, 2022, recommending summary dismissal of the Petition as premature for failure to exhaust state court remedies. (DE 13.) Petitioner filed no objections to the Report and Recommendation. In the absence of objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). The Court must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Accordingly, after a thorough review of the Report and Recommendation and the record in this case, the Court adopts the Report and Recommendation and incorporates it herein.

It is, therefore, **ORDERED** that Wise's Petition is dismissed without prejudice and without requiring the Respondent to file an answer or return. Further, it is **ORDERED** that a certificate

of appealability is denied because Petitioner has failed to make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

s/Joseph Dawson, III
Joseph Dawson, III
United States District Judge

Greenville, South Carolina
June 21, 2022

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.